

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

ABDUL KHALIF CALHOUN,

Plaintiff,

v.

ORDER

Civil File No. 09-683 (MJD/JSM)

CORRECTIONS CORPORATION
OF AMERICA "PRAIRIE
CORRECTIONAL FACILITY,"
TIMOTHY WENGER, et al.,

Defendants.

Abdul Khalif Calhoun, pro se.

Sarah E. Crippen, Elizabeth C. Borer, and Kathleen D. McMahon, Best &
Flanagan, LLP, Counsel for Defendants.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Janie Mayeron dated July 16, 2010. [Docket No. 75] The Report and Recommendation recommends granting summary judgment for Plaintiff, with the exception that, to the extent his claim for damages is based upon an emotional distress claim, it should be dismissed,

and the amount of other damages, if any, should be proven at trial. It also notes that Plaintiff's claims for injunctive and declaratory relief are moot. Plaintiff Abdul Khalif Calhoun filed objections to the Report and Recommendation. Specifically, he objects to the dismissal of his claim for damages for emotional distress. Defendants did not object to any portion of the Report and Recommendation.

Pursuant to statute, the Court has conducted a de novo review upon the record of the portion of the Magistrate Judge's disposition to which specific written objection has been made. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Janie Mayeron dated July 16, 2010.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. Defendants' Motion for Summary Judgment [Docket No. 27] is **DENIED**.
2. Plaintiff's Cross Motion for Summary Judgment [Docket No. 50] is **GRANTED** as to liability. Plaintiff's requests for injunctive and declaratory relief are dismissed as moot. The claim for damages based on emotional distress is dismissed. The remaining damages claims remain for trial.

3. Plaintiff's Motion for Response to Defendants' Summary Judgment [Docket No. 61] is **GRANTED**.
4. Plaintiff's Motion for Telephonic Appearance [Docket No. 69] is **DENIED**.

Dated: September 28, 2010

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court